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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/025,632 | 12/26/2001 | Arthur Alexander Godoy | | 4475 |

7590 12/31/2002

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EXAMINER

MEISLIN, DEBRA S

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------------|------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/025,632 | GODOY ET AL. <i>CH</i> |
| | Examiner Debra S. Meislin | Art Unit 3723 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 October 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11 October 2002 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

 1. Certified copies of the priority documents have been received.

 2. Certified copies of the priority documents have been received in Application No. _____.

 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

1. The substitute specification has not been entered since it includes new matter.

Note lines 24-25 of page 4; lines 19 ("preferably") and 26 ("optimally") of page 5; lines 9, 14, 18, and 22 of page 6; and lines 13-21 of page 7. In addition, on page 4, lines 8 and 12, "22" should be --14--; and in line 15, "26" should be --20--. On page 5, line 13, "a1/2" should be --a 1/2--.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6, the comma "," should be changed to a period --- since all claims must end in a period.

In claim 2, line 2, "said tube" lacks antecedent basis.

In claim 4, "a tapped hole" lacks antecedent basis in the specification and drawings.

In claim 9, it is not clear if applicant is claiming a tube vice frame apparatus by itself or in combination with a tattoo machine. Also, in line 5, "the active end" lacks antecedent basis.

In claim 10, "removable" should be --removably--.

In claim 13, lines 6-7, "the remaining portion" lacks antecedent basis. In line 15, "may be" is vague and indefinite since the scope cannot be determined.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP

§ 2172.01. The omitted structural cooperative relationships are: between the nut, the ferrule, and the receiving piece in cooperation with the tattoo machine elements.

4. The formal corrected drawings, filed on 10/11/02, have been approved.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 12 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Itoya.
7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Binaris et al or Nightingale in view of Itoya.

Binaris et al or Nightingale disclose all of the claimed subject matter except for having a securing means in the form of a nut, a ferrule, and a receiving piece; a brass ferrule; a cast frame, and cutting using a computer controlled mill. Itoya discloses a securing means in the form of a nut, a ferrule, and a receiving piece. Itoya further discloses a split ferrule. It would have been obvious to one having ordinary skill in the art to form the connection of Binaris et al or Nightingale with a nut, a ferrule which may be split, and a receiving piece to provide removable parts as taught by Itoya.

The examiner takes Official Notice that brass ferrules are notoriously old and well known in the art such as in plumbing connections. It would have been obvious to one having ordinary skill in the art to form the ferrule of Binaris et al or Nightingale as modified by Itoya out of brass as such is old and well known in the art to provide a snug connection.

It would have been obvious to form the frame of Binaris et al or Nightingale by casting as such would have been an obvious method of manufacture to one having ordinary skill in the art. The examiner further takes Official Notice that casting a frame is notoriously old and well known in the art.

The examiner takes Official Notice that cutting using a computer controlled mill is an old and well known in the art of cutting. Consequently, it would have been obvious to one having ordinary skill in the art to form the cutting of Binaris et al or Nightingale as modified by Itoya with a computer controlled mill as such is old and well known in the art of cutting.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Applicant's arguments, filed 10/11/02, with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

11. Any inquiry concerning this communication should be directed to Debra S. Meislin at telephone number 703-308-3671.



Debra S. Meislin
Primary Examiner
Art Unit 3723

12/23/02